

## **REMARKS/ARGUMENTS**

Applicants have further reviewed the Office Action of September 6, 2006. No claims have been amended. Claims 1-22 are now cancelled. Claims 23-35 are pending. Applicants request reconsideration.

Applicants' representative, Richard Klein, Reg. No. 33,000, held a telephonic interview with the Examiner on January 4, 2007. In that interview, the claims and references were discussed. The Examiner agreed tentatively to allow claims 23-35 if amendments were made to the claims and an additional affidavit were submitted concerning the criticality of the COR and compression limitations.

Applicants herein submit a Declaration under 37 CFR 1.132. In the Declaration, one of the inventors, Ron Laliberty, states that the combination of the COR and compression limitations is critical for his multi-layer softball. The Declaration refers to the abstract and paragraphs [0005]-[0007] as disclosing the combination of COR and compression as critical. The Declaration refers to paragraph [0025] as disclosing the compression limitations of the softball. The Examples are specifically referred to as well. In the Examples, multi-layer softballs having the combination of COR and low compression were made and tested against control balls (single core layer and single cover layer) having equal COR but a much higher compression. The performance (distance traveled) of the multi-layer softballs was equal or better than the control balls.

The Declaration also refers to each of the references (Yang, Talarico, Walker, and Morgan). In particular, the Declaration notes that Yang does not disclose the combination of COR and low compression. Talarico discloses a safety ball made of layers having hardnesses which are the opposite of the claimed softball. Walker emphasizes that his ball has a lower COR than normal. Morgan does not disclose the combination of COR and low compression. In addition, Walker and Morgan both teach that their balls should not travel the same distance as a conventional ball, whereas the claimed softball is intended to travel the same distance as a conventional ball. Applicants submit that therefore, the combination of these references would not render the instant claims obvious.

Applicants submit that in light of the Declaration and the above amendments, the claims are now in allowable condition. Applicants request withdrawal of the various 35 U.S.C. 103(a) rejections against all the claims.

### CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 23-35) are now in condition for allowance.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he is hereby authorized to call Richard M. Klein, at telephone number 216-861-5582, Cleveland, OH.

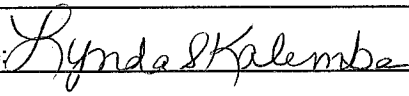
Respectfully submitted,

FAY SHARPE LLP



Date: January 31, 2007

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CERTIFICATE OF MAILING OR TRANSMISSION	
I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being	
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	Signature: 
Date: <u>January 31, 2007</u>	Name: <u>Lynda S. Kalembe</u>

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